

110TH CONGRESS
2D SESSION

H. RES. 1146

Expressing the sense of the House of Representatives that the International Joint Commission should adopt a water level management plan for Lake Ontario and the St. Lawrence River that strongly takes into account environmental considerations and the concerns of the public and the affected States and maximizes hydropower production at existing facilities, and further urges the Secretary of State not to approve a plan that fails to do so.

IN THE HOUSE OF REPRESENTATIVES

APRIL 24, 2008

Mr. MCHUGH (for himself and Ms. SLAUGHTER) submitted the following resolution; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

RESOLUTION

Expressing the sense of the House of Representatives that the International Joint Commission should adopt a water level management plan for Lake Ontario and the St. Lawrence River that strongly takes into account environmental considerations and the concerns of the public and the affected States and maximizes hydropower production at existing facilities, and further urges the Secretary of State not to approve a plan that fails to do so.

Whereas the United States and the Dominion of Canada signed the Boundary Waters Treaty of 1909 (the Treaty), which provided for the creation of the International Joint Commission (IJC) to help resolve and prevent disputes concerning water quantity and quality along the boundary between the United States and Canada throughout the Great Lakes and St. Lawrence River;

Whereas the Treaty states “In cases involving the elevation of the natural level of waters on either side of the line as a result of the construction or maintenance on the other side of remedial or protective works or dams or other obstructions in boundary waters flowing there from or in waters below the boundary in rivers flowing across the boundary, the Commission shall require, as a condition of its approval thereof, that suitable and adequate provision, approved by it, be made for the protection and indemnity of all interests on the other side of the line which may be injured thereby”;

Whereas the environment of Lake Ontario and the St. Lawrence River should be considered an interest;

Whereas the Order of Approval (the Order), which provides specific parameters for the water levels on Lake Ontario and the St. Lawrence River, was adopted by the governments of Canada and the United States in 1952 and amended in 1956 to reflect the development of power in the International Rapids Section of the St. Lawrence River;

Whereas the existing Order has resulted in the substantial derogation of at least 33,000 acres of wetlands, allowing a thick cattail monoculture to expand and replace large areas of biodiverse meadow marsh, resulting in the loss

of habitat for a wide range of aquatic, avian, and upland species;

Whereas in 1999, it was recognized that the current Order was insufficient and therefore the five year, \$20,000,000 International Lake Ontario-St. Lawrence River Study was conducted, with the assistance of agencies, including the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, the Fish and Wildlife Service, the Army Corps of Engineers, and Environment Canada;

Whereas on January 12, 2005, the International Lake Ontario-St. Lawrence River Study adopted the goal that “decision-making with respect to the development of the Lake Ontario-St. Lawrence River System Criteria and Plans will be transparent, involving and considering the full range of interests affected by any decisions with broad stakeholder and public input”;

Whereas on May 12, 2005, the Secretary of the United States section of the IJC, Elizabeth C. Bourget, and the Secretary of the Canadian section of the IJC, Murray Clamen, directed the Upper Great Lakes “Plan of Study” Revision Team to “incorporate lessons learned from the International Lake Ontario-St. Lawrence River Study”;

Whereas on May 31, 2006, three proposed water level management plans were presented to the public for comment: Plan A+ proposed that the water levels of Lake Ontario and the St. Lawrence River be stringently regulated, Plan B+ proposed that the water levels be returned to a more natural rhythm which existed before the pre-project system, and Plan D+ proposed minor changes to

the existing regulation plan to minimize losses to any one interest area;

Whereas the IJC conducted a public comment period on the three proposed plans which concluded on September 15, 2006;

Whereas on June 14, 2007, the IJC announced a new regime would be selected on September 17, 2007;

Whereas on September 10, 2007, the IJC announced that it would extend the period of consultation to allow more time for discussions with government in the Lake Ontario and St. Lawrence River basin;

Whereas on March 28, 2008, the IJC announced Plan 2007, which had not previously been submitted to the public for comment or fully vetted by the scientific community and the State of New York, as the proposed water level management plan for Lake Ontario and the St. Lawrence River;

Whereas all territory of the United States regulated by the Order is exclusively within the domain of the State of New York;

Whereas Plan 2007, which closely mirrors the existing regime, does not provide the same measure of environmental benefits as those proposed by Plan B+;

Whereas Plan 2007 does not allow for the same high levels of hydropower production as those proposed by Plan B+;

Whereas hydropower is a low-cost, abundant, and renewable source of energy for power generation; and

Whereas the approval of the Secretary of State, acting as the agent of the United States Government, is needed before

a new water level management plan is adopted: Now, therefore, be it

1 *Resolved*, That it is the sense of the House of Rep-
2 resentatives that—

3 (1) the IJC's proposed Plan 2007 does not pro-
4 vide the necessary level of environmental protections
5 and benefits for Lake Ontario and the St. Lawrence
6 River;

7 (2) the views of the public and the State which
8 has jurisdiction of waters to be regulated must be
9 fully considered when a new plan for the manage-
10 ment of water levels is selected;

11 (3) any water level management plan should
12 make every effort to maximize hydropower produc-
13 tion at existing facilities; and

14 (4) the Secretary of State should not approve a
15 water level management plan if the criteria set forth
16 in paragraphs (1) through (3) are not met.

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